

### **Remarks**

The non-final Office Action dated March 24, 2008 lists the following rejections: claims 1-20 stand rejected under 35 U.S.C. § 112(2); claims 1-3 and 17-19 stand rejected under 35 U.S.C. § 102(b) over Isham *et al.* (U.S. RE38,487); and claims 16 and 20 stand rejected under 35 U.S.C. § 103(a) over Isham.

Applicant respectfully traverses the § 112(2) rejections of claims 1-20 because the claims do particularly point out and distinctly claim that which Applicant regards as the invention. Regarding the rejection based on the main cells and the sense cells, Applicant submits that the rationale behind the rejection is misplaced. Specifically, the rejection indicates that an example embodiment describing more than one main cell and more than one sense cell is not shown in the figures. However, the figures show example circuits that may be applicable to the described example embodiments, with one or more individual circuit elements repeated to make larger circuits. That is, as is consistent with relevant law and the M.P.E.P., when an item such as a circuit or a device is repeated, a figure showing a single item that can be repeated can be sufficient to exemplify embodiments having more than one such circuit or device. In this instance, the figures clearly show a main cell and a sense cell that are readily repeated for large circuit applications. For instance, referring to Fig. 1 and the corresponding discussion at paragraphs 43-54, the circuit shown by a dashed line around main cell 2 and sense cell 4 can be repeated and similarly connected, such that each repeated circuit includes a main cell and sense cell as shown. Applicant submits that such variations in what is shown in the figures and as consistent with the detailed description is clear and would be readily understood by one of skill in the art in a manner that is consistent with § 112(2). Applicant notes that the discussion throughout the specification refers to “main cells 2” and “sense cells 4” (*i.e.*, multiple main cells and multiple sense cells).

Moreover, Applicant previously presented this argument in the Response dated December 27, 2007 to which the Examiner failed to respond in any manner. *See, e.g.*, M.P.E.P. § 707.07(f) (“Where the applicant traverses any rejection, the examiner should, if he or she repeats the rejection, take note of the applicant's argument and answer the substance of it.”). The instant Office Action simply repeated the rejection without

acknowledging Applicant's previous argument and responding to the substance of it as required.

Regarding the rejection of claim 2, the Office Action appears to be confused as to the scope of claim 2. Applicant submits that claim 2 does not recite that the sense cells and the main cells are driven separated. For example, claim 2 recites that the sample and hold circuit is arranged to operate in the sample state to sense the current passing through the sense cells and to drive the sense cell gate towards a voltage in which a c target current passes through the sense cells. Claim 2 further recites that the sample and hold circuit is arranged to operate in the hold state to hold its output voltage and to drive the main cell insulated gate with that output voltage. Thus, Applicant submits that it would be clear to the skilled artisan that the sample and hold circuit drives the sense cell gate in the sample state and that it drives the main cell gate in the hold state; however, claim 2 does not recite separately driving the main and sense cells as asserted by the Office Action. Applicant notes that Fig. 2 does indicate that the sense cells 4 can be driven separately from the main cells 4. *See, e.g.*, Paragraphs 0062-0065.

Regarding the rejection of claim 3, Applicant notes that claim 3 depends from claim 2. Applicant submits that antecedent basis for "the feedback sample and hold circuit" can be found in line 2 of claim 2 with "a feedback sample and hold circuit."

In view of the above, the § 112(2) rejections of claims 1-20 are improper and Applicant requests that they be withdrawn. With the § 112(2) rejections having been overcome for the reasons discussed above, Applicant submits that claims 4-15 should be indicated as allowable since no prior art rejection has been presented for these claims.

Applicant respectfully traverses the § 102(b) rejection of claims 1-3 and 17-19 and the § 103(a) rejection of claims 16 and 20 because the cited portions of the Isham reference do not correspond to the claimed invention which includes, for example, aspects directed to a sample and hold circuit that senses the current flowing through sense cells in a sample state. The Office Action erroneously asserts that Isham's FET 14 and sample and hold circuit 38 correspond to the sense cells and the sample and hold circuit, respectively, of the claimed invention. The cited portions of the Isham reference do not teach that sample and hold circuit 38 senses the current flowing through FET 14 in a sample state; instead Isham teaches that sample and hold circuit 38 samples the current

flowing through FET 36. *See, e.g.*, Fig. 2 and Col. 4:15-25. Thus, the cited portions of Isham are not arranged as required by the claimed invention. *See, e.g.*, M.P.E.P. § 2131 (“The elements must be arranged as required by the claim”). Moreover, the Isham reference does not qualify as prior art under § 102(b) because it was not patented or published more than one year prior to Applicant’s priority date of April 16, 2003 (*i.e.*, the Isham reference issued on April 6, 2004). Accordingly, the § 102(b) rejection of claims 1-3 and 17-19 and the § 103(a) rejection of claims 16 and 20 are improper and Applicant requests that they be withdrawn.

Applicant further traverses the § 102(b) rejection of claims 2-3 and 17-19 and the § 103(a) rejection of claim 20 because the cited portions of the Isham reference do not correspond to the claimed invention which includes, for example, aspects directed to a sample and hold circuit that both senses the current flowing through sense cells in a sample state and that drives the sense cells in the sample state. As discussed above, the cited portions of Isham do not teach sample and hold circuit 38 senses the current flowing through FET 14 (*i.e.*, the Office Action’s alleged sense cells) in a sample state; instead Isham teaches that sample and hold circuit 38 samples the current flowing through FET 36. *See, e.g.*, Fig. 2 and Col. 4:15-25. In addition, the cited portions of Isham do not teach that sample and hold circuit 38 drives FET 36 during the sample state; instead Isham teaches that FET 36 is driven by amplifier 34. *See, e.g.*, Figs. 1-2 and Col. 3:22-26. Accordingly, the § 102(b) rejection of claims 2-3 and 17-19 and the § 103(a) rejection of claim 20 are improper and Applicant requests that they be withdrawn.

Applicant further traverses the § 103(a) rejection of claims 16 and 20 because the Office Action fails to establish a *prima facie* case of obviousness. The Office Action appears to be taking Official Notice that aspects of the claimed invention directed to the ratio of the time in the sample state to the time in the hold state being between 1:5 and 1:20; however, the Office Action has not cited to any prior art reference to support this assertion. *See, e.g.*, M.P.E.P. § 2144.03 (“It would not be appropriate for the examiner to take official notice of facts without citing a prior art reference where the facts asserted to be well known are not capable of instant and unquestionable demonstration as being well-known.”). As such, Applicant requests that the Office Action provide documentary support for the assertion that the claimed range of ratios of sample state time to hold state

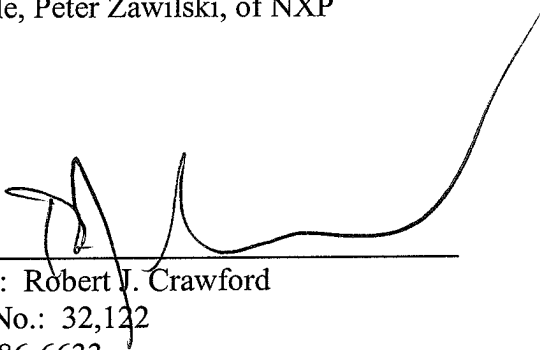
time are well known. Applicant also requests that the Office Action provide motivation for why the skilled artisan would modify the Isham reference to operate using the claimed ratios of sample state time to hold state time. In response to the Office Action's assertions regarding routine experimentation and optimization of ranges, Applicant submits that the Office Action must first establish a *prima facie* case of obviousness by citing to a prior art reference that discloses an overlapping range (*see, e.g.*, M.P.E.P. § 2144.05(I)) before Applicant needs to present evidence of the criticality of the claimed range (*see, e.g.*, M.P.E.P. § 2144.05(III)). In this instance, the Office Action has not cited to any prior art reference, thus, the Office Action has not established a *prima facie* case of obviousness. Accordingly, the § 103(a) rejection of claims 16 and 20 is improper and Applicant requests that it be withdrawn.

In view of the remarks above, Applicant believes that each of the rejections has been overcome and the application is in condition for allowance. Should there be any remaining issues that could be readily addressed over the telephone, the Examiner is asked to contact the agent overseeing the application file, Peter Zawilski, of NXP Corporation at (408) 474-9063 (or the undersigned).

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